
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL CARRERA,

Defendants.

**ORDER AFFIRMING & ADOPTING
REPORT & RECOMMENDATIONS**

Case No. 2:05CR895DAK

This is a multiple defendant criminal case in which Chief Magistrate Judge Alba has issued three Reports and Recommendations on two motions to suppress and a *James* hearing. This case was referred to the Chief Magistrate Judge Samuel Alba under 28 U.S.C. § 636(b)(1)(B). A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the record *de novo* with respect to these motions to suppress and the *James* hearing.

On March 14, 2007, Chief Magistrate Judge Alba issued a Report and Recommendation on a motion to suppress brought by Defendants Javier Segura, Genaro Medina Luna, Mont Housekeeper, Eric Angell, and Jeffrey Thiemig. The motion seeks to suppress all evidence of the interception of telephonic communications of telephone numbers (801) 759-7129 and (801) 474-9763. Chief Magistrate Judge Alba concluded that the affidavits supporting the applications for the August 22, 2005 and October 25, 2005 wiretap orders showed necessity, and the investigators

were reasonable in their efforts to minimize non-pertinent conversations. Accordingly, Chief Magistrate Judge Alba recommended that the motion be denied.

Defendant Javier Segura filed an objection to the Report and Recommendation, relying on the arguments contained in his original brief on the motion to suppress. After conducting a *de novo* review of the record with respect to this motion to suppress, the court finds no basis for reversing or modifying the Report and Recommendation. Therefore, Chief Magistrate Judge Alba's March 14, 2007 Report and Recommendation is hereby affirmed and adopted in its entirety as the Order of this court. Accordingly, the motion to suppress is denied.

On July 13, 2007, Chief Magistrate Judge Alba issued a Report and Recommendation on a *James* hearing regarding the admissibility of alleged co-conspirators' statements. *See United States v. James*, 590 F.2d 575 (5th Cir.), *cert denied*, 442 U.S. 917 (1979). Two defendants, Francisco Valenicia and Christopher Duell, each filed memorandum regarding the *James* hearing. The government also filed a memorandum. Chief Magistrate Judge Alba's Report and Recommendation finding that the government demonstrated by a preponderance of the evidence that a conspiracy existed and that Defendants Eric Angell, Mark Robles, Francisco Valencia, Christopher Duell, and Javier Segura were members of the conspiracy.

On July 23, 2007, Defendant Mark Robles' prior counsel filed an Objection to the Report and Recommendation but did not state any specific objections and requested additional time to file an accompanying memorandum. Robles was appointed new counsel on August 3, 2007. No accompanying memorandum has been filed to support Robles' objections, and the time for filing the memorandum has passed. No other defendant filed an objection to the Report and

Recommendation.

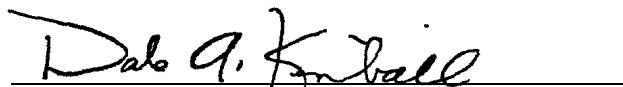
The court has reviewed *de novo* Chief Magistrate Judge Alba's Report and Recommendation, and the relevant memoranda and evidence relating to the *James* hearing. The court finds no basis for an objection by any of the Defendants. Therefore, the court adopts Magistrate Judge Alba's Report and Recommendation in its entirety as the Order of this court.

On September 4, 2007, Chief Magistrate Judge Alba issued a Report and Recommendation on a motion to suppress filed by Defendant Francisco Valencia, recommending that the motion be denied. On September 12, 2007, Defendant Francisco Valencia filed an Objection to Magistrate's Report and Recommendation. On September 21, 2007, Chief Magistrate Judge Alba issued an Amended Report and Recommendation. No objection has been filed to the Amended Report and Recommendation.

The court has reviewed *de novo* the Report and Recommendation, the Objection, and the relevant memoranda and evidence relating to the motion to suppress. The court agrees with the analysis in the Report and Recommendation. The court concludes that there was reasonable suspicion to stop Valencia's car to conduct and investigative stop, the officer did not exceed the scope of the stop, Valencia's consent was freely and voluntarily given, Valencia's consent was unequivocal and specific, Valencia was not in custody for purposes of *Miranda*, and the government established that Valencia's statements were voluntary. Accordingly, the court affirms and adopts the September 21, 2007 Amended Report and Recommendation in its entirety. Therefore, Defendant Valencia's motion to suppress is denied.

DATED this 16th day of October, 2007.

BY THE COURT:



DALE A. KIMBALL
United States District Judge